

## **REMARKS**

The present Amendment amends claims 1-8 and 11 and cancels claims 9 and 10. Therefore, the present application has pending claims 1-8 and 11.

Filed on even date herewith are Proposed Drawing Corrections so as to correct a minor error in Fig. 1. Particularly, a correction is necessary to Fig. 1 to show a connection between the interface 124 of the DB server 110 of the primary site 100 and the network 170 as described, for example, on page 7, lines 1-17 of the present application. Entry of the Proposed Drawing Corrections is respectfully requested.

Claims 1-11 stand rejected under 35 USC §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention. As indicated above, claims 9 and 10 were canceled. Therefore, this rejection with respect to claims 9 and 10 is rendered moot. Various amendments were made throughout the remaining claims 1-8 and 11 to bring them into conformity with the requirements of 35 USC §112, second paragraph. Therefore, this rejection with respect to claims 1-8 and 11 is overcome and should be withdrawn.

Specifically, amendments were made throughout claims 1-8 and 11 to overcome the objections noted by the Examiner in the Office Action.

Claims 1, 2, 9 and 10 stand rejected under 35 USC §102(e) as being anticipated by Kodama (U.S. Patent No. 6,728,849). As indicated above, claims 9 and 10 were canceled. Therefore, this rejection with respect to claims 9 and 10 is rendered moot. Accordingly, reconsideration and

withdrawal of this rejection with respect to claims 9 and 10 is respectfully requested.

It should be noted that the cancellation of claims 9 and 10 was not intended nor should it be considered as an agreement on Applicants part that the features recited in claims 9 and 10 are taught or suggested by Kodama or any of the references of record. The cancellation of claims 9 and 10 was simply intended to expedite prosecution of the present application.

The above described rejection with respect to claims 1 and 2 is traversed for the following reasons. Applicants submit that the features of the present invention as now more clearly recited in claims 1 and 2 are not taught or suggested by Kodama whether taken individually or in combination with any of the other references of record. Therefore, Applicants respectfully request the Examiner to reconsider and withdraw this rejection with respect to claims 1 and 2.

Amendments were made throughout claims 1 and 2 to more clearly describe features of the present invention as recited in the claims. Particularly, amendments were made to the claims to more clearly recite that the present invention is directed to a computer system including a first storage apparatus located at a first site and a second storage apparatus located at a second site, which is operatively connected to the first site via a network.

According to the present invention the first storage apparatus is configured to sort data stored in the first storage apparatus into groups which are each assigned a priority level and to transfer the sorted data to the second storage apparatus.

Further, according to the present invention when a failure occurs in the first storage apparatus, the second storage apparatus transfers the sorted data stored therein, in an order according to the priority levels assigned to the groups, to the first storage apparatus to recover the first storage apparatus.

As shown in, for example, Fig. 6 of the present application, a primary site 100 sorts data stored therein into one or more groups, which are each assigned a priority level, and transfers the sorted data to a secondary site 102. The sorted data may be transferred in either synchronous copy mode or asynchronous copy mode. The secondary site 102 stores the duplicated data therein in the same manner as the primary site 100. The priority levels assigned to the groups define the order in which data of the groups are transferred to the primary site 100 when data recovery is required. Thus, according to the present invention as recited in the claims, in a process of recovering data in the primary site 100, the secondary site 102 transfers the data stored therein to the primary site 100 in a group-by-group basis according to their respective priority levels.

The above described features of the present invention now more clearly recited in the claims are not taught or suggested by any of the references of record whether taken individually or in combination with each other. Particularly, the above described features of the present invention now more clearly recited in the claims are not taught or suggested by Kodama.

Kodama, contrary to the allegations made by the Examiner, fails to teach or suggest the above described features of the present invention as recited in claims 1 and 2. Kodama merely discloses that a data storage system includes a local storage facility and a remote storage facility

configured to form pairs of storage areas (i.e., local storage areas and remote storage areas), wherein each of the pairs is given a priority level.

Specifically, as shown in Figs. 2 and 3 of Kodama, pairs of storage areas are given a priority level. As per Kodama, in a process of writing data in response to an I/O request from a server 24, the local storage facility 12 makes a remote copy request based on the priority level if the data is found to be a pair of remote copy, and then places the remote copy request into an RC queue 44. Thus, as per Kodama, the remote copy request in the RC queue 44 is retrieved in order of the priority level thereof, and, as a consequence, the data associated with the retrieved remote copy request is sent to a remote storage facility 12 according to its indicated priority level.

Attention is directed to Figs. 6 and 8. It is noted that in Kodama the data to be written is simply transferred from the local storage facility 12 to the remote storage facility 12. There is no teaching or suggestion in Kodama that the remote storage facility 12' transfers data from the remote storage facility 12' to the local storage facility 12 to recover the local storage facility 12 in an order according to the priority levels of groups of data to be transferred as in the present invention. Kodama merely states that "the servers 224' of remote storage facility 212 [...] may optionally be included for failover purposes [...]."

See col. 8, lines 7-14 of Kodama. Accordingly, the remote storage facility 12 of Kodama is not the same as, or equivalent to, nor does it perform the same functions, as the second storage apparatus of the present invention as recited in the claims. the second storage apparatus of the present invention transfers data in groups from the second (remote) storage apparatus to the first (local)

storage apparatus in an order corresponding to the priority levels assigned to the respective groups.

Thus, Kodama fails to teach or suggest that the first storage apparatus is configured to sort data stored in the first storage apparatus into groups which are each assigned a priority level and to transfer the sorted data to the second storage apparatus as recited in the claims.

Further, Kodama fails to teach or suggest that when a failure occurs in the first storage apparatus, the second storage apparatus transfers the sorted data stored therein, in an order according to priority levels assigned to the groups, to the first storage apparatus to recover the first storage apparatus as recited in the claims.

The remaining references of record have been studied. Applicants submit that they do not supply any of the deficiencies noted above with respect to the reference utilized in the rejection of claims 1, 2, 9 and 10.

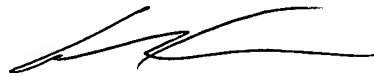
Applicants note that the Examiner did not reject claims 3-8 and 11 based upon prior art. Therefore, since the 35 USC §112, second paragraph rejection of these claims have been overcome, Applicants submit that these claims are now in condition for allowance. Accordingly, early allowance of claims 3-8 and 11 is respectfully requested.

In view of the foregoing amendments and remarks, applicants submit that claims 1-8 and 11 are in condition for allowance. Accordingly, early allowance of claims 1-8 and 11 is respectfully requested.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C., Deposit Account No. 50-1417 (TMI-5038).

Respectfully submitted,

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.



---

Carl I. Brundidge  
Registration No. 29,621

CIB/jdc  
(703) 684-1120